IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION No. 5047 OF 1994.

1] The Chairman, Ranwad Parisar Vikas Pratishthan, Kakasaheb Nagar, Tal. Niphad, District Nashik.

2] The Principal, Shree Chhatrapati Shivaji Maharaja Vidyalaya, Kakasaheb Nagar, Tal. Niphad, District Nashik.

.. **..PETITIONERS.**

VERSUS.

Kamlakar Govind Rane, Age Major, Occupation Service, Resident of Kakasaheb Nagar, Tal. Niphad, District Nashik.

.. **..RESPONDENT.**

Ms. Deepali Kale i/b Mr. P.N. Joshi for the Petitioner.

None for Respondent though served.

CORAM:R.M.S.KHANDEPARKAR,J.

DATED:9TH NOVEMBER, 2006.

ORAL JUDGMENT.

1] Heard the learned Advocate for the Petitioner. None present for the Respondent though served. The petitioner challenges judgment and order dated 27th April, 1994 passed by the School Tribunal in Appeal No.

17 of 1993. The challenge is confined to the order to the extent it directs payment of backwages for the period from Ist April, 1992 till the reinstatement of the respondent i.e. 4.11.1993.

2] The sole contention on behalf of the petitioner is that inspite of repeated efforts on the part of the petitioner to give opportunity to the respondent to attend to his duties, he had neglected to avail such opportunities and,therefore, it was on account of failure on the part of the respondent that he did not attend to his duties and consequently he cannot claim backwages.

3] The said contention is devoid of substance in view of specific findings arrived at by the Tribunal in the impugned judgment which are not under challenge. Findings are to the effect that there is no positive evidence produced by the petitioner herein to show that the respondent was actually attending to any private work or getting any sort of monetary benefit out of any such private work. On the other hand, the

respondent had produced number of letters dated 13th August,22nd September, 30th September,23rd of September,17th of October, and 13th of December of the year 1992 which disclose efforts on his part to attend to his duties. But it was on account of adamant attitude on the part of management and failure on the part of management that the respondent could not join his duties. In view of this clear findings which have been arrived at on detail analysis of materials on record, question of payment of backwages to the respondent does not arise at all. Therefore, no fault can be found with the impugned judgment directing payment of backwages for the said period to the respondent. As the impugned judgment and order is not challenged on any other ground, there is no case for interference in the impugned judgment. Hence petition fails and dismissed.

4] Rule is discharged. No order as to costs.

[R.M.S. KHANDEPARKAR,J.]